IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

SUMMONS FOR JUDGMENT NO. 931 OF 2004

IN

SUMMARY SUIT NO. 2553 OF 2004

Rusi H. Dadyburjor .. Plaintiff

vs.

M/s. Zehra & Sons & Ors. .. Defendants.

Mr. Jayen Trivedi & Tejas Bhatt for plaintiff.

Mr. P.S. Gidwani a/w Ashok Kumar Rastogi

for defendants.

CORAM : S.U. KAMDAR, J.

DATE : 10TH OCTOBER, 2005.

P.C.

. The present suit is filed on two dishonoured cheques for Rs. 20 lacs. There is no dispute as to the issuance of the cheques and the same being dishonoured. However, the learned counsel for the defendants contends that the said cheques were issued firstly in respect of the purchase of the furniture and fixtures for Rs. 30 lacs and another cheque for Rs. 10 lacs was given for transfer for the premises. It is the case of the plaintiff that the plaintiff having failed to transfer the tenancy

in favour of the defendant the landlord has filed a suit for sub-letting which was required to be compromised by the defendant and it is thereafter that the present suit is filed.

2. In so far as the cheque for Rs. 10 lacs is concerned, which pertains to the consideration of the furniture and fixtures sold by the plaintiff to the defendant, I find no defence at all. This cheque has nothing to do with transfer of tenancy. In that view of the matter, I am of the opinion that conditional leave should be granted to the defendant to defend the suit on the defendant depositing Rs. 10 lacs in this Court within a period of four weeks from today failing which the plaintiff will be entitled to decree. The amount if so deposited, the Prothonotary and Senior Master is directed to deposit the same in a fixed deposit with any nationalised bank initially for a period of one year and renew the same from time to time till further orders from this Court.

3. Suit transferred to the list of Commercial Causes. Written Statement or points of defence to be filed four weeks from the date of deposit. Affidavits list of documents to be filed within four weeks thereafter. Inspection within four weeks thereafter. Suit to be on Board of the learned Judge taking Commercial Causes.